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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,202	11/13/2001	Srinivas Gutta	US010572	2934

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EXAMINER

LASTRA, DANIEL

ART UNIT PAPER NUMBER

3622

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,202

Applicant(s)

GUTTA, SRINIVAS

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 and 3-23 have been examined. Application 10/014,202 (METHOD AND APPARATUS FOR RECOMMENDING ITEMS OF INTEREST BASED ON PREFERENCES OF A SELECTED THIRD PARTY) has a filing date 11/13/2001.

Response to Amendment

2. In response to Advisory Action filed 10/31/2005, the Applicant filed an RCE on 11/15/2005, which amended claims 1, 7, 14, 17, 18, 22 and 23. Applicant's amendment overcame the Section 101 rejection.

Claim Objections

3. Claim 3 is objected to because it depends on cancel claim 2. For purpose of art rejection, claim 3 is made dependent of claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 3-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 2-23 recite the limitation "wherein each cluster is comprised of a segment of tangible items that exhibits a

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characteristic similarity". Nowhere, in Applicant's specification this limitation is described or explained.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 3-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 2-23 recite the limitation "wherein each cluster is comprised of a segment of tangible items that exhibits a characteristic similarity". Nowhere, in Applicant's specification this limitation is described or explained. For purpose of art rejection, said limitation is interpreted as meaning that the "clustered third party viewing history contains a number of clusters of items that are similar to one another in some way".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz (US 5,758,257).

As per claims 1, 14, 17, 22 and 23, Herz teaches:

A computerized method for recommending one or more available items to a target user, comprising the steps of:

obtaining a history of selecting one or more available items by at least one third party (see column 5, lines 24-54);

partitioning a third party selection history into a plurality of clusters (see column 5, lines 24-54), *wherein each cluster is comprised of a segment of tangible items that exhibit a characteristic similarity* (see column 34, lines 57-60; column 38, lines 10-15), wherein each cluster contains items that are closer to the mean of the cluster than any other cluster from among the plurality of clusters (see column 12, lines 29-55; column 37, lines 34-60; column 38, lines 1-55),

modifying a target user's history of selecting said one or more available items with one or more third party clusters to produce a modified target user's history (see column 49, lines 1-20);

processing the modified target user's history to generate a target user profile, wherein the modified target user's history characterizes preferences of the target user as modified to reflect preferences of the third party (see column 49, lines 1-20);

generating a recommendation score for at least one of said available items (see column 5, lines 5-20) based on said target user's profile (see column 49, lines 1-20);
and

displaying the recommendation score to the target user (see column 49, lines 1-20).

As per claims 3 and 16, Herz teaches:

The method of claim 2, wherein said obtaining step further comprises the step of receiving a user selection of one or more of said clusters of similar items (see column 5, lines 24-54).

As per claim 4, Herz teaches:

The method of claim 1, wherein said one or more items are programs (see column 5, lines 1-20).

As per claim 5, Herz teaches:

The method of claim 1, wherein said one or more items are content (see column 8, lines 20-25).

As per claim 6, Herz teaches:

The method of claim 1, wherein said one or more items are products (see column 47, lines 53-67).

As per claims 7 and 18, Herz teaches:

A computerized method for maintaining a user profile indicating preferences of a user, comprising the steps of:

partitioning a third party selection history into a plurality of clusters, *wherein each cluster is comprised of a segment of tangible items that exhibit a characteristic similarity* (see column 34, lines 57-60; column 38, lines 10-15), wherein each cluster contains items that are closer to the mean of the cluster than any other cluster from among the plurality of clusters (see column 12, lines 29-55; column 38, lines 1-55);

receiving a selection from said user of at least one of said clusters of similar items (see column 5, lines 24-54; column 49, lines 1-20); and

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modifying updating said user profile using said user selected clusters (see column 6, lines 50-55; column 30, lines 10-25).

As per claims 8 and 19, Herz teaches:

The method of claim 7, wherein said user profile is associated with a program content recommender (see column 4, lines 32-57).

As per claims 9 and 20, Herz teaches:

The method of claim 8, wherein said user profile indicates viewing preferences of said user (see column 4, lines 40-47).

As per claims 10 and 21, Herz teaches:

The method of claim 7, wherein said step of updating said user profile further comprises the steps of updating a selection history of said user with items from said selected clusters and updating said user profile using said updated selection history (see column 6, lines 10-60).

As per claim 11, Herz teaches:

The method of claim 7, wherein said one or more items are programs (see column 5, lines 1-21).

As per claim 12, Herz teaches:

The method of claim 7, wherein said one or more items are content (see column 8, lines 12-22).

As per claim 13, Herz teaches:

The method of claim 7, wherein said one or more items are products (see column 47, lines 52-67).

As per claim 15, Herz teaches:

The system of claim 14, wherein said processor is further configured to partition said third party selection history into clusters containing similar items (see column 5, lines 24-54).

Response to Arguments

6. Applicant's arguments filed 11/15/2005 have been fully considered but they are not persuasive. The Applicant argues that the clusters of Herz are comprised of intangible items while the clusters of the invention are comprised of tangible items. The Examiner answers that nowhere in Applicant's specification said limitation is recited and the Applicant is adding new matter to the Application. The Applicant further argues that tangible items are television programs or viewer purchases. The Examiner answers that Herz teaches in column 38, lines 10-15 that movies (i.e. tangible item) watched by a customer must be clustered into groups for selection of the centroid (average of the group). Therefore, Herz teaches a cluster that comprises tangible items.

The Applicant argues that in Herz each profile in a cluster typically reflects a characteristic dissimilarity with every other profile in the cluster because the cluster in Herz are grouped on the basis of location, time and day, while the Applicant's clusters are grouped based on a characteristic similarity of tangible items. The Applicant further argues that each cluster contains a number of television programs that are similar to one another in some way. The Examiner answers that Herz teaches in column 34, lines 59-60 that clustering is to group objects of high similarity into clusters; column 38, lines 10-15 teaches that movies watched by a customer are clustered into groups for

selection of the centroid of each group and column 21, lines 1-30 teaches the clustering of television programs into different categories or clusters (i.e. romance, violence) where said clustering is used to target programs to customers. Therefore, Herz teaches clustering as defined by Applicant's specification.

The Applicant further argues that the cluster of Herz are comprised of multiple individuals (e.g. mother and father) and by contrast, the clusters in the present claimed invention are comprised of segment of tangible items of a single third party (specifically a viewing history of a selected third party, such as a friend, colleague or trendsetter is processed into a clustered third party viewing history). The Examiner answers that the Applicant is arguing about limitations not stated in the claims. The Applicant claims recite "modifying a target user's history of selecting said one or more available items with one or more third party clusters to produce a modified target user's history". Herz teaches in column 49, lines 1-5 the incorporation of a celebrity viewing history (i.e. third party "trendsetter") into a customer's viewing history for the purpose of updating said customer's viewing history. Therefore, Herz teaches the Applicant's claimed invention.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

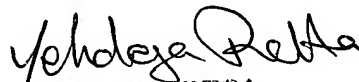
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel Lastra
December 20, 2005



RETTA YEHDEGA
PRIMARY EXAMINER